

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

21 MC 100 (AKH)

IN RE WORLD TRADE CENTER
DISASTER SITE LITIGATION

DOCKET NO. 05 CV 07273

BRUCE GREENBERG and ANGELA GREENBERG,
Plaintiffs,

-against-

**PLAINTIFFS' RESPONSE
IN OPPOSITION TO THE
MOTION BY THE PORT
AUTHORITY OF NEW
YORK AND NEW JERSEY
FOR SUMMARY JUDGMENT**

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, THE PORT AUTHORITY
OF NEW YORK AND NEW JERSEY, SILVERSTEIN
PROPERTIES, INC., BOVIS LEND LEASE LMB,
INC. f/k/a LEHRER McGOVERN BOVIS, INC., NEW
YORK CITY DEPARTMENT OF
ENVIRONMENTAL PROTECTION, and NEW YORK
CITY DEPARTMENT OF HEALTH and MENTAL
HYGIENE,

**PLAINTIFFS DEMAND
A TRIAL BY JURY**

Defendants.

Plaintiffs, BRUCE GREENBERG and ANGELA GREENBERG, by their attorneys STEPHEN M. CANTOR, P.C., ATTORNEY AT LAW, 319 Broadway, Suite 400, New York, New York 10007, (212) 732-8456, in Response to the Motion for Summary Judgment Dismissing Complaints Against The Port Authority of New York and New Jersey for Lack of Subject Matter Jurisdiction and the Memorandum Of Law, dated October 12, 2011, in support thereof, respectfully allege:

1. Movants claim that the Plaintiffs, BRUCE GREENBERG and ANGELA GREENBERG, actions against the Port Authority of New York and New Jersey must be dismissed for commencing their action more than one year after accrual in violation of New York Unconsolidated Laws Section 7107. [Movants Memorandum of Law, in section 2, page 16, lists 5/5/2004 as the accrual date (based on Notice(s) of Claim); the date the action was commenced is 5/11/05. (See Exhibit 1 enclosed.)]
2. Plaintiffs' Notice of Claim, dated 7/21/04, states that the plaintiff, BRUCE GREENBERG, on 5/5/04, learned that the illnesses he suffered, which were the direct result of his work at the site of the collapsed World Trade Center (WTC), were only the following, listed illnesses: "Joint and skeleton pain; swollen and infected lymph nodes in entire respiratory area; shortness of breath and choking; and dry cough." (See Exhibit 2 enclosed.)
3. However, inhalation of the toxic smoke at the site of the collapsed WTC caused the plaintiff, BRUCE GREENBERG, to suffer different, additional illnesses which, while unknown to BRUCE GREENBERG or his doctors at the time the Notice of Claim was served, arose later, striking him later, and were then first identified by his doctors subsequent to the commencement of the action.

Therefore, when the Notice of Claim was served on July 21, 2004 and the action was commenced on May 11, 2005 the Plaintiff, BRUCE GREENBERG and his doctors were largely unaware of the following illnesses:

A. Chronic Obstructive Pulmonary Disease (COPD) first became known to the plaintiff, BRUCE GREENBERG, on or about March 29, 2005;

B. Ground Glass Syndrome first became known to the plaintiff, BRUCE GREENBERG, on or about November 23, 2007;

C. Severe Obstructive Sleep Apnea (OSA) on BiPaP first became known to the plaintiff, BRUCE GREENBERG, on or about January 27, 2008;

D. Gastric Nodules first became known to the plaintiff, BRUCE GREENBERG, on or about September 18, 2008;

E. Major Depressive Disorder first became known to the plaintiff, BRUCE GREENBERG, on or about December 12, 2007;

F. Multiple Bilateral Pulmonary Nodules first became known to the plaintiff, BRUCE GREENBERG, on or about November 23, 2007;

G. A Conglomerate Subcarinal Nodal Mass first became known to the plaintiff, BRUCE GREENBERG, on or about March 25, 2008;

H. Enlarged Mediastinal Hilar Adenopathy first became known to the plaintiff, BRUCE GREENBERG, on or about March 25, 2008;

I. Enlarged Paraesophageal Lymph Node first became known to the plaintiff, BRUCE GREENBERG, on or about November 23, 2007;

J. Left Periaortic and Right Pretracheal Nodes first became known to the plaintiff, BRUCE GREENBERG, on or about November 23, 2007;

K. Post Traumatic Stress Disorder first became known to the plaintiff, BRUCE GREENBERG, on or about August 23, 2007;

L. Bilateral Renal Cysts first became known to the plaintiff, BRUCE GREENBERG, on or about July 2, 2008;

M. Erectile Dysfunction first became known to the plaintiff, BRUCE GREENBERG, on or about August 23, 2007; and

N. Sinus Problems first became known to the plaintiff, BRUCE GREENBERG, on or about July 20, 2006. (See Amended Complaint in Exhibit 3.)

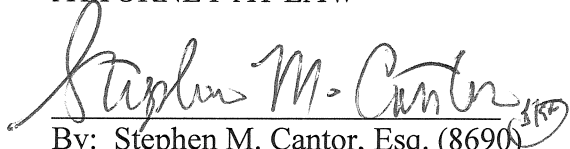
Therefore, said Motion for Summary Judgment Dismissing Complaints Against The Port Authority of New York and New Jersey for Lack of Subject Matter Jurisdiction, must be denied as to the Plaintiff, BRUCE GREENBERG, since almost all, thirteen (13) of fourteen (14), of the injuries set forth above were not known to either the Plaintiff, BRUCE GREENBERG, or his doctors until long after the filing of the Notice of Claim and the Complaint in the above-referenced action, and, therefore, the claim is not time barred.

Plaintiffs demand a jury trial to determine all issues of fact in this case.

Dated: New York, New York
November 18, 2011

Yours, etc.

STEPHEN M. CANTOR, P.C.,
ATTORNEY AT LAW

A handwritten signature in cursive script that reads "Stephen M. Cantor". The signature is written in dark ink and is positioned above the printed text. There is a small, stylized mark at the end of the signature that looks like "JKP".

By: Stephen M. Cantor, Esq. (8690)
319 Broadway, 4th Floor
New York, New York 10007
(212) 732-8456